

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JERILYN H. SILVER,

Plaintiff,

vs.

No. CIV 98-0454 JC/LFG

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM OPINION AND ORDER

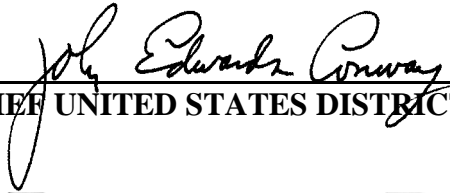
THIS MATTER comes before the Court upon Plaintiff's Motion for Reconsideration, filed May 12, 1999 (*Doc. 7*). Plaintiff asks the Court to reconsider its May 3, 1999 Memorandum Opinion and Order dismissing this cause without prejudice for lack of jurisdiction. Plaintiff's Motion for Reconsideration is construed to be a motion to alter or amend judgment made pursuant to FED. R. CIV. P. 59(e). *See Phelps v. Hamilton*, 122 F.3d 1309, 1323 (10th Cir. 1997) (a motion filed within 10 days of the entry of the judgment seeking to alter the substantive ruling of the courts is properly considered as a Rule 59(e) motion). Whether to grant or deny a motion to reconsider is committed to the district court's sound discretion. *Id.* at 1324.

A Rule 59(e) motion to alter or amend the judgment should be granted only to correct manifest errors of law or to present newly discovered evidence. *Id.* (internal quotations omitted). Plaintiff has not presented any newly discovered evidence. Instead, she argues that this Court should have exercised its discretion and withdrawn the reference to Bankruptcy Court. The Court, however, has not referred this case to the Bankruptcy Court. Moreover, Plaintiff's citations to cases where a

district court purportedly heard a tax case following a discharge from bankruptcy are not supportive of her argument for reconsideration. I find that Plaintiff has failed to establish that the May 5, 1999 Memorandum Opinion and Order contained any manifest errors of law in finding a lack of jurisdiction. For the above reasons, I conclude that Plaintiff's Motion for Reconsideration is not well taken and should be denied.

Wherefore,

IT IS ORDERED that Plaintiff's Motion for Reconsideration, filed May 12, 1999 (*Doc. 7*) is hereby **denied**.



CHIEF UNITED STATES DISTRICT JUDGE

Plaintiff <i>pro se</i> :	Jerilyn H. Silver Santa Fe, New Mexico
Counsel for Defendant:	Jon E. Fisher Tax Division Department of Justice Dallas, Texas